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ABSTRACT

The commission studied the establishment and effectiveness of district-wide school disciplinary policies and practices and developed a plan to address the growing concern of violence in the public schools. The following 11-point plan was presented, including key findings and recommendations: (1) adopting statewide student conduct and responsibility standards; (2) adopting local district-wide codes of conduct; (3) formulating mandatory crisis response plans; (4) enacting antihazing and antiharassment statutes to protect educational personnel; (5) providing teachers with greater input in the removal of disruptive and violent students and disciplinary and placement decisions; (6) providing timely reporting of student records between schools; (7) establishing a task force to study alternative programs and interventions; (8) providing certain juvenile crime/conviction information to school officials; (9) providing information to law enforcement; (10) providing immunity protections for school personnel; and (11) supporting violence prevention and intervention programs. Appendices list resolves 1997, commission members, summaries of meetings, civil rights cases in Maine, and information on other states' school safety programs. (DFR)

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Final Report
of the

COMMISSION TO STUDY PROVIDING EDUCATORS WITH MORE AUTHORITY TO REMOVE VIOLENT STUDENTS FROM EDUCATIONAL SETTINGS

January 1999

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Maine Legislature

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STATE OF MAINE
118TH LEGISLATURE
SECOND REGULAR AND SPECIAL SESSIONS

Final Report
of the

COMMISSION TO STUDY PROVIDING EDUCATORS WITH MORE AUTHORITY TO REMOVE VIOLENT STUDENTS FROM EDUCATIONAL SETTINGS

January 1999

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Executive Summary

The Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings was established in the Second Special Session of the 118th Legislature by Resolve 1997, chapter 119. The Commission's 17 members included individuals representing the Legislature, executive branch agencies, teachers, superintendents, school boards, principals, parents and students.

The Commission was charged with studying the establishment and the effectiveness of district-wide school disciplinary policies and practices in the State and developing a plan to address the growing concern of violence in the public schools. In examining these issues, the Commission was authorized to conduct public hearings to receive testimony on the incidence of disruptive student conduct and violent behavior in the public schools throughout the State. The Commission was specifically charged with reviewing:

1. The collection and analysis of available data related to the incidence of disruptive student conduct and violent behavior in the public schools throughout the State;

2. Effective district-wide school disciplinary policies, procedures and practices that seek to prevent or respond to disruptive or violent student conduct in the public schools;

3. The establishment of suggested student conduct and responsibility standards; and

4. The establishment of a system for notifying school personnel regarding a student with a history of violent behavior.

The Commission was convened on October 5, 1998, met six times, received information from several panels of expert and heard public testimony at three public hearings. The Commission came to two major conclusions regarding the incidence of disruptive and violent student behavior in Maine public schools: first, that teachers, school personnel, school officials and students themselves are faced with a wide range of disruptive and violent student conduct, including gross misconduct and threatening behavior that is serious in nature; and second, that some Maine school officials and communities currently use a variety of effective prevention and intervention strategies and practices to address disruptive and violent student behavior.

The Commission presents the following 11-point plan, including key findings and recommendations, for the immediate consideration of the Legislature:

1. State-wide student conduct and responsibility standards

The Department of Education, in consultation with representatives of appropriate education stakeholder groups, should develop statewide standards for responsible and

ethical student behavior and report these standards to the Joint Standing Committee on Education and Cultural Affairs by April 1, 1999.

- Statewide standards for responsible and ethical student behavior should be established in a timely fashion so that school administrative units can implement district-wide student conduct codes for the academic year beginning in September 2000; and

- School administrative units should report any and all violent and harmful incidents occurring on public school property to the Department of Education on an annual basis; the department should revise existing forms used to collect incidence report data on prohibited behaviors.

2. Local district-wide codes of conduct for all students

Beginning in September 2000, every school administrative unit in the State should implement district-wide student conduct codes for all students with clearly defined consequences at the building level for unacceptable behavior, including physical violence and verbal harassment. Local school officials should retain authority to determine how their school curriculum and student conduct codes will comply with statewide student conduct standards.

3. Mandatory crisis response plan for every school in the State

All school administrative units in the State should be required to develop and adopt a crisis response plan for violent acts or potential crisis situations for each school building in the unit. School officials are encouraged to consult with public safety and law enforcement officials, as well as human services and mental health professionals, in developing their crisis response plans.

4. Anti-hazing and anti-harassment statutes to protect educational personnel

The Legislature should amend the existing "anti-hazing" statute to include protections for educational personnel as well as students. In addition, the statutory definition of "injurious hazing" should be amended to include "injurious harassment." Including injurious harassment in this definition will clarify and emphasize other prohibited behaviors, including intimidating or "bullying" behavior that may not fall within protections established under the Maine Civil Rights Act.

5. Providing teachers with greater input in the removal of disruptive and violent students from the classroom and disciplinary and placement decisions

School boards should be encouraged to develop policies that allow for greater input by teachers and other educational personnel concerning disciplinary and placement decisions and the removal of violent or disruptive students from the classroom. School

unit officials should empower teachers to send disorderly, violent or abusive student from a classroom to the principal's office, and similarly empower a school bus driver to recommend the revocation of the privilege of riding on a school bus, for any student who: (a) engages in disorderly conduct; (2) threatens, abuses, intimidates or attempts to intimidate a school employee or student; or (3) uses profane or abusive language toward a school employee or student.

6. Providing timely reporting of student records between schools

Educational records must follow students who apply to transfer to a school in another school administrative unit in the State; students who transfer from out of state schools should also be subject to this new requirement.

- Before a student may be admitted to a school, the student's parents or guardians must affirm in writing to the school whether the student has been suspended or expelled -- or is presently involved in an expulsion process -- from any public school in Maine or any other state;

- The sending school administrative unit should provide, in a timely fashion, a report to the receiving school administrative unit indicating whether the student has been suspended, expelled or is presently the subject of an expulsion proceeding;

- The receiving school administrative unit should retain discretion as to the admission of a student who has been suspended, expelled or is presently the subject of an expulsion proceeding; and

- School administrative units should report information regarding student expulsions to the Department of Education which should maintain current files on expelled students and provide information to appropriate school officials regarding the disciplinary status of students applying for transfer from one school unit to another unit.

7. Establishing a task force to study the implementation of alternative programs and interventions for violent and chronically disruptive students.

A separate task force should be established to study alternative educational settings for disruptive and violent students, including the implementation of positive behavioral supports in classrooms, alternative community placements and the incorporation of local and regional resources and additional funding as required. The Commission further recommends that this task force report its findings and conclusions to the Joint Standing Committee on Education and Cultural Affairs by December 1, 1999. A minority report was filed regarding this recommendation (see **Appendix F**).

8. Providing certain juvenile crime/conviction information to school officials

The local district attorney should provide to the superintendent of an alleged juvenile offender's school, and to the superintendent's designees, the name of the youth and other information about the alleged charges in the following circumstances: (a) if a petition has been filed against a juvenile for an alleged offense which alleges the use or threatened use of physical force against a person, or (b) if a juvenile has been adjudicated as committing an offense described above. Any information received under these new provisions should not become part of the student's education record and should remain confidential, except as otherwise provided by law. A minority report was filed regarding this recommendation (see **Appendix F**).

9. Providing information to law enforcement officials

A school superintendent should provide to local police or other appropriate law enforcement authorities, information regarding violent offenses committed by any person on school grounds. This information should be provided as soon as practicable.

10. Providing immunity protections for school personnel

School personnel who report safety concerns to school officials with regard to violent or disruptive students should be protected from employment discrimination or retaliation for reporting the safety concerns.

11. Support for violence prevention and intervention programs for teachers, staff and students

Additional funding and resources should be provided for the following violence prevention and intervention programs: (a) conflict resolution education for grades K-12, including training and development for educators and peer mediation programs for students; (b) the Attorney General's Civil Rights Team Project; and (c) programs that can help teachers and other school personnel identify and respond appropriately to violent and disruptive student behavior. Additional funds should be targeted towards extending the benefits of these prevention and intervention programs to other school administrative units across the state.

I. INTRODUCTION AND COMMISSION PROCESS

During the 118th Legislature, Representative Green sponsored L.D. 2142, "An Act to Provide Educators With More Authority to Remove Violent Students from Educational Settings." The bill was referred to the Joint Standing Committee on Education and Cultural Affairs (Education Committee). L.D. 2142 proposed to require school boards to develop and adopt a district-wide school disciplinary policy that addresses rules of conduct for students, consequences for violations of the rules of conduct and the grounds and procedures for the removal of a disruptive or violent student from a class or activity period. The bill also proposed to provide for an ombudsman service to provide advocacy for the enforcement of the disciplinary policy and to mediate disputes regarding the disciplinary policy. The bill further proposed that school board members and other involved parties should conduct an annual review of the school administrative units disciplinary policies.

During work sessions to review the initiatives proposed in L.D. 2142, Members of the Education Committee sought to comprehend the nature and scope of the problem situation confronting classroom teachers, other educational staff and school officials in Maine's public schools. Education Committee Members were concerned that sufficient data regarding the incidence of disruptive and violent student behavior in Maine schools was unavailable. Legislators also recognized the need to gather information describing existing policies and practices established by state policymakers and local school officials to address disruption and violence in the public schools.

In reporting out L.D. 2142, the Education Committee recommended the establishment of the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings ("Commission"). By enacting this legislation, the 118th Legislature directed the Commission to review district-wide school disciplinary policies, procedures and practices that address disruptive student conduct and violent behavior in the public schools in the State. The Commission was also charged with studying the establishment and the effectiveness of district-wide school disciplinary policies and practices throughout the State. The majority report further directed the Commission to develop a plan addressing the growing concern of violence in the public schools and to submit its report with any accompanying legislation to the Joint Standing Committee on Education and Cultural Affairs of the 118th Legislature by October 30, 1998.

Commission Established

The Commission was established in the Second Special Session of the 118th Legislature by Resolve 1997, chapter 119. A copy of the Resolve is attached as **Appendix A**. The Commission consisted of seventeen members: two Legislators who were members of the Joint Standing Committee on Education and Cultural Affairs jointly chaired the Commission; the Commissioner of Education or designee; the Commissioner of Corrections or designee; the Commissioner of Human Services or designee; the

Commissioner of Mental Health, Mental Retardation and Substance Abuse Services or designee; the Attorney General or designee; two members representing parents; one member who is a student representing a peer mediation group; two members representing public school teachers; one member representing educational technicians; one member representing school bus drivers; one member representing superintendents; one member representing school principals and one member representing school boards. A list of Commission members is included in **Appendix B**.

Charge to the Commission

The Commission was charged with developing a plan to address the growing concern of disruption and violence in the public schools. In examining the issues relating to school disruption and violence, the Commission was authorized to conduct public hearings to receive testimony on the incidence of disruptive student conduct and violent behavior in the public schools throughout the State. The Commission was specifically charged with reviewing the following:

1. The collection and analysis of available data related to the incidence of disruptive student conduct and violent behavior in the public schools throughout the State;

2. Effective district-wide school disciplinary policies, procedures and practices that seek to prevent or respond to disruptive or violent student conduct in the public schools;

3. The establishment of suggested student conduct and responsibility standards; and

4. The establishment of a system for notifying staff regarding a student with a history of violent behavior.

Scope and Focus of Commission Meetings

The Commission held six meetings. These meetings occurred on October 5 and October 19, 1998; November 12, 1998; December 3, 1998; December 10, 1998; and December 16, 1998.

The first three Commission meetings focused on the incidence of disruptive and violent student behavior in public schools, the legal aspects of school discipline and student conduct policies, and effective prevention, intervention and crisis response programs. Each of these meetings included a panel discussion and also provided an opportunity for public testimony during a public hearing. Invited panelists included representatives from the Maine Education Association, the Department of Education, the College of Education & Human Development at the University of Maine, attorneys representing school boards, school officials and educational staff; school administrators, school counselors, school psychologists, local law enforcement personnel, community advocates and peer mediation groups. The Commission heard testimony from teachers,

education technicians, bus drivers, superintendents, school board members, principals, special education directors, alternative school officials, school attorneys, parents and from members of the public. At its final three meetings, Commissioners reviewed the information presented and formulated findings and recommendations.

The enabling legislation established October 30, 1998, as the reporting date of the Commission to the Joint Standing Committee on Education and Cultural Affairs of the 118th Legislature. Due to the abbreviated time period in which the Commission had to complete its work after the October 5, 1998 convening date, the Commission petitioned the Legislative Council for an extension of the report deadline in legislation presented to the 119th Legislature in January 1999.

II. BACKGROUND

In establishing this Commission, the Education Committee sought to focus the study on collecting available data that may define the problem situation and gathering information that would inform the Legislature about existing efforts that seek to prevent or respond to disruptive and violent student behavior.

Discussion of the Problem Situation: Disruptive and Violent Student Behavior

The following sections describe the data collected and the information received by Commissioners related to the four charges presented to the Commission in the authorizing legislation: (1) data collection and analysis, (2) effective policies and practices, (3) state standards for student conduct and (4) notification system/right-to-know issues. A summary of findings are presented in **Appendix C**.

Data Collection and Analysis

The data collection and analysis activities of the Commission included a review of research articles, survey and case study data, federal and state government reports, professional association publications and media accounts related to the incidence of disruptive and violent student behavior in school aged youth and in Maine schools. The Commission also analyzed oral and written information provided by experts and practitioners in professional fields directly involved with school safety and youth violence, as well as public testimony presented by individuals and representatives of interested parties at the three public hearings.

The Commission found that available data describing the incidence and severity of disruptive and violent student behavior in Maine's public schools is limited. Beyond the biennial "Youth Risk Behavior Survey" of secondary and middle school students established through the Department of Education in 1995, Maine still lacks a systematic data collection and reporting system to accurately identify the incidence of disruptive and violent student behavior in our public schools. Despite this limitation, the Commission cites findings and observations from the following survey research, case studies and anecdotal reports to provide some perspective on the incidence of disruptive and violent student behavior in Maine public schools:

Survey Research & Qualitative Study Data.

- Some of the major findings of the 1997 "Youth Risk Behavior Survey" of Maine high school students include the following: 11% carried a weapon in school; 4% didn't go to school because they felt unsafe; 8% were threatened or injured by another student with a weapon at school; and 14% reported involvement in a physical fight at school;

- Some of the major findings of the 1997 "Safe and Drug Free Schools and Communities Act", which contains incidence data reported from 66 of 282 Maine school districts, includes the following: of 7,849 offenders in grades K-12, 26% were elementary students, 36% middle school students and 38% secondary school students; 170 had weapons, 833 have abused substances, 22% were special education students; of 4,080 victims, 19% were special education students;

- Qualitative research undertaken during the 1997-98 academic year through a collaboration between the Maine Principals' Association and the University of Maine College of Education Research Partnership documents the significant concern that 33 Maine principals cited regarding "challenging behaviors" of students in their schools. The most frequently cited challenging behavior included: "aggressive behavior" - behavior that physically hurts others such as fighting, throwing objects, kicking, assaulting and ripping things off walls; "defiant behavior" - including opposition to rules, directives or expectations of teachers and school officials; and "harassment" - behaviors including intimidation, name calling, verbal and physical harassment and bullying; and

- Some of the major findings of the Northeast Association of Schools and Colleges 1997-98 "School Climate Survey", which contains data from surveys of 8,000 secondary students in 22 Maine public high schools, includes the following: 50% disagree that students treat each other with respect, 34% disagree that there is little vandalism at their school, 34% disagree that school rules are enforced fairly, 25% disagree that teachers respect the student in their school and 24% are not proud of their school building. The data suggests that students are alienated from peers, from educators and from the community (especially tuition students).

Anecdotal Reports and Observations.

- While only a few students are involved in school violence, the incidence and type of violence is increasing in Maine high schools: knives, guns, pellet guns and drugs are confiscated; teachers report being verbally harassed, hit, kicked, punched and stabbed with pens;

- Elementary grade students in Maine reportedly "play-act" aggressive behavior on the playground and increasingly exhibit bullying behavior, including a willingness to be defiant and confront adult authority;

- Data collected over the past few years by Civil Rights Team officials in the Department of the Attorney General indicate that Maine youth are alleged to be involved in approximately 40% of the 250 to 300 complaints received regarding alleged civil rights violations;

- The Department of the Attorney General's Civil Rights Unit has documented six hate crime cases involving Maine public school students during the fall of 1998. A Civil Rights Unit attorney reported that harassment stems from prejudice and a pattern of degrading language (**see Appendix D**). Students are often subjected to increasingly more serious threats and assaults before the harassment is reported to adults and school officials;

- Youth advocates reported that tobacco use, substance abuse and violence are found in schools, homes and businesses across the State; and suggested that Maine educators and community officials need to get rid of the "not in my school" attitude;

- A school psychologist indicated that safe schools are the result of widespread, community-based responses. Risk and danger assessment is difficult to accomplish as anger is an emotional state and must be determined in the context of the individual, the situation and the environment. Trained personnel can only identify immediate, high-risk states, and at best, a risk assessment is only valid for 3-7 days; and

- Research identifies reasons why some children are violent: children feel unsafe in school, children are confronted with violence, drugs and harassment; children need structure and social skills to control impulses, solve problems and resolve conflicts.

Barriers to Systematic Data Collection and Reporting.

Commissioners received information indicating that barriers exist which prevent the implementation of a systematic data collection and reporting system. Researchers reported that: (a) school officials may not always be willing to air their "dirty laundry" related to school violence in public; and (b) it is difficult to expect that those school officials who report such data can uniformly document and report those disruptive acts or criminal behavior that aren't clearly-defined. Teachers also indicated that school administrators cited confidentiality provisions of the Family Educational Rights and Privacy Act (FERPA) as a means to prevent teachers from sharing information that may enhance school safety.

Several suggestions were proposed to improve data collection efforts, including the following:

- Research should focus on outcomes of prevention and intervention programs, not just report the number of incidents occurring in schools;

- Data reporting can be strengthened by providing school officials with a "win-win" rationale -- both students and school officials receive community support; and

- Funding targeted research projects through the Maine Education Policy Research Institute can enhance statewide data collection and reporting efforts.

Effective Policies and Practices

Even as the Commission was conducting its review of school violence prevention and intervention strategies, a number of parallel initiatives were established by public and private sector entities: the Commissioner of Education convened an inter-agency youth violence working group; the University of Maine College of Education and the Bangor Daily News coordinated a collaborative Safe Schools Task Force; the EXCEL Program coalition involving the University of Maine Law School, University of Southern Maine College of Education, the Maine State Bar Association and the Maine Bar Foundation provided training and technical assistance for peer mediation programs; two separate Education Summits on Prejudice Harassment and Hate Violence in Maine Schools were sponsored by the Maine Leadership Consortium and the Office of the Attorney General; and other program initiatives and events were undertaken by public safety and law enforcement associations.

The Commission review of effective policies and practices focused on learnings from the field and best practices cited by reports and publications, as well as information provided by experts and practitioners in professional fields directly involved with school safety and youth violence and public testimony presented at the public hearings. The following strategies and principles were summarized from research and practitioner-based experience provided to the Commission:

Early Intervention / Prevention Programs.

To have the greatest impact, public policy should focus prevention and intervention programs on reaching kids before third grade (eight years old); otherwise, the success of intervention efforts appear to produce diminished results.

Comprehensive Safe School Programs -- Staff Training & Development.

- Old Town High School employs a proactive approach that includes clearly-defined discipline policies with real consequences, yet school officials retain the ability to deal with children as individuals; the program is based on mutual-respect, teamwork, cooperation and consideration; civil rights and conflict resolution training are also provided;

- Auburn's Edward Little High School has designed a safe school plan that includes on campus school resource officers who monitor and limit access; the school climate committee focuses on safety for students and staff; off-campus, alternative education programs for grades 7-9 and 10-12 have 95% graduation rate; the school also provides a peer mediation training program;

- Schools need funding for staff development; answers lie in providing tools through training for staff and students in conflict resolution and peer mediation; "bullyproofing schools" training should also be provided to educators and students;

- Teacher preparation programs should incorporate coursework and placement with mentor-teachers;

- Professionally-trained classroom teachers are in a position to see students' behavior patterns, yet administrators play an impartial role in sorting out actions, providing due process and implementing consistent policy enforcement; and

- School counselors provide affective skill development curriculum including: problem solving, conflict resolution, career planning, self-empowerment, social skills and behavior management.

Student Conduct Codes with Explicit Consequences.

- Codes of conduct communicate behavioral expectations to students and parents; social skills program within a "responsive classroom" promotes student taking responsibility for behavior; consequences for misbehavior should include mandatory behavior plan;

- Students must be held accountable for actions in school; school officials should communicate expectations -- such as removal of privileges, in-school suspension and after-school detention -- to both students and parents; and parental involvement in school should be increased;

- Lewiston High School has "zero tolerance" policy for assaults on teachers and other students; immediate response of police officer on duty in school makes teachers feel more safe; a student assault on a teacher must have swift response and the accused should be brought directly to a judge;

- Existing state law allows teachers to use "reasonable force" to protect themselves or students by removing students from harmful situations; school administrative unit policy can define "reasonable force" and local school officials should do so to support teachers; and

- Locally-developed models seem to work; provisions in original L.D. 2242 would promote developing hallmarks of effective policies and programs.

Expanding Suspension and Expulsion Authority.

In 1975, the United States Supreme Court upheld a student's property interest in receiving an education (see Goss v. Lopez, 419 U.S. 565, 1975). In Goss, the Supreme Court held that due process requires, in connection with a suspension of 10 days or less, that students be given oral or written notice of the charges against them and, if a student denies them, an explanation of the evidence the authorities have and an opportunity to present the student's side of the story. Students whose presence poses a continuing danger to persons or property, or an ongoing threat of disrupting the academic process, may be immediately removed from school. In such cases, the necessary notice and rudimentary hearing should follow as soon as practicable.

- Following the 1975 Supreme Court ruling, federal and state law allowed school administrative units to suspend or expel students for up to 10 days cumulatively. Current Maine law allows school boards to expel students to "maintain the peace and usefulness of the school";

- Allowing school administrative units to suspend students for more than 10 days for extreme misbehavior may provide a more reasonable timeframe to investigate, prepare for hearing or conduct assessment for alternative placement;

- Suspensions should require mandatory psychological assessment and establish a behavioral contract before student can return to school;

- State law should give teachers authority to suspend student for up to five days; and provide teachers with blanket immunity; and

- The 1997 reauthorization of the Individuals with Disabilities Education Act (IDEA 1997) permits school administrative units to expel a special education student from school for up to 45 days for violation of federal weapon or drug law, but state law may still limit school administrative units authority; the "least restrictive environment" IDEA standard often precludes alternative placements.

Alternative Education Programs.

- Schools need access to a fluid range of transitional programming and alternative settings for disruptive students, including sheltered workshops within the community;

- State law allows regional compacts for alternative education programs; Waldo County and Old Town have good programs; state incentives can promote these compacts; and

- Schools often lack resources for appropriate placement of students with behavioral disorders, or for students coming off parole; programs, service providers and transportation are often unavailable.

Law Enforcement & Juvenile Justice System Interventions.

- School officials reported that disruptions and violence tremendously affect the learning environment; while a small minority of students will not internalize consequences involved in school sanctions, there aren't meaningful alternative education programs in place and referral to the juvenile justice system is not timely or significant;

- Juvenile courts fail to provide an immediate, meaningful response to violence in schools since it may take five to six months from an incident before a court date is scheduled for an alleged juvenile offender;

- Effective diversion and alternative sentencing programs are needed for juveniles charged with criminal offenses; Jump Start program and other informal adjustment alternatives may provide a middle course between school sanctions and Maine Youth Center sentencing; restorative justice programs may also prove to be effective;

- The Bath Police Department, working with school officials and parents, provide diversion programs (e.g., Jump Start, an eight-week program on decision-making, involves adult mentors from the community and the Volunteers of America program provides case workers to intervene with at-risk youths) where the goal is to help youth deal with anger and resolve problems; the department is also working with school officials to develop a crisis response plan;

- Establishing in-school prevention and intervention programs with local law enforcement works, yet the lack of adequate resources is a barrier to municipalities without local police departments; and

- Attorney General's Civil Rights Team officials report that restraining orders are an effective intervention for harassment (only five violations in 150 orders); yet, restraining orders fail to prevent further civil rights violations as civil rights complaints show a steady increase and drop in age of both accused perpetrators and victims.

Conflict Resolution / Peer Mediation Programs / Civil Rights Team Program.

- "Sense of belonging" research shows that extra- and co-curricular involvement increases student's "assets" and feeling of membership and belonging;

- Maine schools have over 2,000 peer educators; over 100 peer mediation programs started in Maine schools over last six years; peer mediation, often part of a conflict resolution program, is a peacemaking process where students learn to express emotions and develop communication, problem-solving and conflict-resolution skills;

- Research findings indicate peer mediation reduces conflict and aggressiveness, increases perspective taking, improves staff and student perspectives of school environment; however, impact on suspensions and violent incidents is still unclear;

- The Attorney General's Civil Rights Team Project began in 1996 with 18 schools, grew to 56 in 1997 and 100 by 1998; Attorney General officials provide 40-60 in-service training programs per year; the program purpose is to raise awareness and encourage early reporting of acts of harassment; and

- Power of the Civil Rights Teams come from developing peer role models and encouraging youth to stand up and do the right thing; a growing nucleus of peer role models can change culture in schools.

Engaging Other Professionals / Parents / Local Communities.

- Administrators sensing immediate risk should spread response across the community: assess protective factors with parents & school counselor, contract with parents for emergency services, clinical assessment, police; determine educational program later;

- School officials should designate specialists to intervene with at-risk youth (e.g., special education, guidance counselors, education technicians, outside consultants, student assistance teams); or contract programs from outside of school (i.e., commercial program such as Actors of Maine);

- Communities for Children prevention initiatives foster partnerships between state and local communities to increase children's educational achievement and well-being; 52 partner communities have been established across the state; and

- Research-based "developmental asset" approach (Search Institute) involves all sectors of community in assessing realities facing children and focusing on 40

building blocks that renew community and help youth grow up healthy, caring and responsible.

State Standards for Student Conduct

Based on testimony from the L.D. 2142 public hearing and further discussions at Committee work sessions related to the Commissioner of Education's proposal to explore the public policy implications of state standards for student conduct, the Education Committee added this item to the Commission's charge. Research collected by Commission staff indicated that several states have enacted state standards for student conduct (please see **Appendix E**). The following comments summarize the suggestions received by the Commission:

Statewide Student Conduct and Responsibility Standards.

- The Department of Education proposal to develop statewide student conduct and responsibility standards could expand upon the "responsible and involved citizen" guiding principal in the System of Learning Results;

- A parallel set of statewide student conduct and responsibility standards is needed to protect every student's right to learn and meet the Learning Results standards;

- The State should set common expectations and standards for all schools and should also provide training and resources to support school administrative units; and

- The State role should be to gather best practices from local districts, allow school administrative units to tailor their own policies and provide districts with resources to train educators.

Anti-Hazing and Civil Rights Statutes.

During its study, the Commission reviewed the current "anti-hazing" statutes in Title 20-A. Anti-hazing statutes: (a) require school boards to set anti-hazing rules on or off campus and to establish penalties for violations and (b) require school boards to assign authority to superintendents, to set up an appeal process and to distribute policies to students. While Department of Education officials indicated that these provisions represented another example of state expectations for student conduct, Commissioners discussed the following issues regarding the implementation of these provisions:

- State officials should review the implementation of anti-hazing and civil rights statutes; anti-hazing statutes should be implemented and enforced, particularly the provisions requiring school officials to develop local anti-hazing policies

and to disseminate these policies to students, parents and community members;

- Anti-hazing statutes may also address bullying; and

- Anti-hazing and civil rights statutes should be expanded to protect teachers and other school officials.

Individuals with Disabilities Education Act - 1997 Reauthorization.

Another state policy review item was flagged by Commissioners during the di ssion of state standards. Regulations established under the 1997 Reauthorization of the Individuals with Disabilities Education Act (IDEA 1997) contain new requirements regarding the data collection activities of states education agencies. New IDEA regulations require the tracking of disciplinary action involving special education students. State officials are expected to develop plans to adapt data collection and reporting procedures to respond to this requirement.

Notification / Right to Know Issues

The Commission heard testimony that access to information on students is frequently chaotic; schools, police and courts frequently do not communicate well and tend to keep their own records in separate "cubbyholes." Schools that are asked to accept transferred students often have difficulty obtaining discipline information from the student's former school. In addition, school personnel are often fearful that disclosing student discipline information will lead to student claims that the school violated the students' "right to privacy/confidentiality" or claims that the school violated the Family Educational Rights and Privacy Act (FERPA).

1. Maine generally prohibits the disclosure of juvenile crime records, including arrest, petition and conviction records (see 15 M.R.S.A. §§3307-3308). Two exceptions to this law with respect to juvenile conviction records specifically apply to school officials in the district where the student attends school:

    a) Juvenile records may be disseminated if the juvenile is adjudicated as having committed a juvenile crime; the information is disseminated by and to specified persons and entities, including the superintendent (or designee) of the juvenile's school; and the information is relevant to and disseminated for creating or maintaining a rehabilitation plan (see 15 M.R.S.A. §3308, B-1).

    b) If a juvenile is adjudicated of gross sexual assault, the Department of Corrections must provide a copy of a the judgment and commitment to specified persons and agencies, including the superintendent of any

school the juvenile attends during commitment or probation (see 15 M.R.S.A. §3308, D).

The Commission heard testimony concerning the importance of opening the relationship between the local law enforcement agencies and schools, especially with regard to juveniles who pose a risk of violent behavior towards other students or school personnel. The Commission considered, however, the importance of safeguarding the confidentiality of juvenile crime and petition records. While teachers need to be informed about juvenile criminal records and educational records, there were concerns expressed that children would be labeled or "condemned" by the school or the community if criminal/disciplinary information is released.

The Improving America's Schools Act of 1994 (IASA) amended FERPA to permit educators, pursuant to a State statute, to disclose information to State and local officials, as long as the disclosure concerns the juvenile justice system. As a result, schools in States that have passed such statutes may now disclose information on students to other local and State agencies. Although a student's education records may be shared with a school's law enforcement unit, the law enforcement unit may not disclose the education records without prior parental or student consent (if the student is 18 years or older) or under a specified exception in FERPA.

III. SUMMARY OF KEY FINDINGS AND RECOMMENDATIONS

The Commission came to two major conclusions regarding the incidence of disruptive and violent student behavior in Maine public schools: first, that teachers, school personnel, school officials and students themselves are faced with a wide range of disruptive and violent student conduct, including gross misconduct and threatening behavior that is serious in nature; and second, that some Maine school officials and communities currently use a variety of effective prevention and intervention strategies and practices to address disruptive and violent student behavior. The Commission presents the following 11-point plan, including key findings and recommendations, for the immediate consideration of the Legislature.

1. State-wide student conduct and responsibility standards

Current state law entrusts the Commissioner of Education and the State Board of Education with certain authority to provide educational leadership for the State and to enforce applicable laws and regulations. However, Maine statutes make no specific declaration of the State's public policy regarding expectations or standards for student conduct.

Recommendation

The Commission recommends that legislation be enacted which directs the Department of Education, in consultation with representatives of appropriate education stakeholder groups, to develop statewide standards for responsible and ethical student behavior. The following provisions should be included in legislation establishing the development of statewide standards:

- Statewide standards for responsible and ethical student behavior should be established in a timely fashion so that school administrative units can implement district-wide student conduct codes that meet statewide standards for the 2000-01 academic year beginning in September, 2000;

- Statewide standards should be sensitive to the policy making roles and responsibilities of both state and local officials and community members; and

- School administrative units should report any and all violent and harmful incidents to the Department of Education on an annual basis; the Department of Education should revise existing forms used to collect data regarding incidence reports on prohibited behaviors.

The Department of Education should develop and report statewide standards for responsible and ethical student behavior to the Joint Standing Committee on Education and Cultural Affairs by April 1, 1999. Commission staff will draft a letter from the

Commission to the Commissioner of Education and send copies to the Chairpersons of the Joint Standing Committee on Education and Cultural Affairs.

This recommendation was approved by a general consensus of those Commissioners present.

2. Local district-wide codes of conduct for all students

Under state law, the control and management of the public schools are vested in local school boards. Following a proper investigation and due process proceedings, current statutes authorize school boards to suspend or expel a student: (a) who is found to be deliberately disobedient or disorderly, (b) for infractions of violence, (c) who possesses a firearm or a dangerous weapon on school property without permission of a school official, (d) who, with use of a dangerous weapon, intentionally or knowingly causes injury or accompanies use of a weapon with a threat to cause injury; (e) who possesses, furnishes or traffics in any scheduled drug; or (f) for infractions of "injurious hazing" policy by means of any action or situation which recklessly or intentionally endangers the mental or physical health of a student enrolled in a public school. Beyond these particular acts of misconduct, state law contains no specific requirement that a school administrative unit must establish a uniform student conduct policy for students attending all schools within the unit.

Recommendation

The Commission recommends that legislation be enacted which requires every school administrative unit in the State to develop district-wide student conduct codes for all students with clearly defined consequences at the building level for unacceptable behavior, including physical violence and verbal harassment. School administrative units should implement district-wide student conduct codes that are consistent with statewide standards for the 2000-01 academic year beginning in September, 2000. School administrative unit officials should retain authority to determine how their school curriculum and district-wide student conduct codes will comply with statewide conduct standards.

Legislation mandating district-wide student conduct codes should require that school administrative units address the following components:

- Specify student responsibility standards and define unacceptable behavior;
- Establish procedures for enforcement of student conduct code;
- Consequences should be enacted for first time violations, where appropriate;
- Development of district-wide student conduct codes should allow for the involvement of school board members, administrators, teachers, parents, students and community members;
- Procedures determined appropriate for referring a student in need of special education services to those services;

- Procedures for consideration of whether there is a need for further assessment or a review of the adequacy of a current individual education plan of a student with a disability who is removed from class; and
- School officials must communicate district-wide student conduct codes and standards to students, parents and community members.

This recommendation should not be construed to prohibit a school administrative unit with an existing student conduct code in place that is consistent with statewide standards from implementing or enforcing such a code.

This recommendation was approved by a general consensus of those Commissioners present.

3. Mandatory crisis response plan for every school in the State

Commissioners were informed of the crisis response planning initiated in several school districts across the State, as well as the recent efforts made by the Maine School Management Association to encourage local school boards to work with local public safety and law enforcement officials to develop crisis response plans. While the current state of preparedness of Maine schools and the capacity of school officials and educational personnel to respond to crisis situations involving violent students is unknown at this time, the Commission strongly endorsed the principle that crisis response measures are an integral component of a comprehensive safe school program.

Recommendation

The Commission recommends that legislation be enacted which requires all school administrative units in the State to develop and adopt a crisis response plan for violent acts or potential crisis situations for each school building in the school administrative unit.

- Local education officials are encouraged to consult with public safety and law enforcement officials, as well as human services and mental health professionals, in the development of their crisis response plans.

This recommendation was approved by a general consensus of those Commissioners present.

4. Anti-hazing and anti-harassment statutes to protect educational personnel

At present, the Maine "anti-hazing" statute prohibits "injurious hazing" which is defined as "any action or situation which recklessly or intentionally endangers the mental or physical health of a student enrolled in a public school (see 20-A M.R.S.A. § 6553). The "anti-hazing" statute requires all Maine school boards to adopt a policy which

expressly prohibits injurious hazing, either on or off school property, by any student, staff member, group or organization affiliated with the public school.

Recommendation

The Commission recommends that legislation be enacted which revises the existing "anti-hazing" statute to include protections for educational personnel as well as students. The Commission further proposes to expand the statutory definition of "injurious hazing" to include "injurious harassment." By amending this definition, the statute clarifies and emphasizes prohibited behaviors, including intimidating or "bullying" behavior that often doesn't fall within the protections under the Maine Civil Rights Act.

This recommendation was approved by a general consensus of those Commissioners present.

5. Providing teachers with greater input in the removal of disruptive and violent students from the classroom and disciplinary and placement decisions

Presently, school boards may expel students for committing violent or other serious acts on school grounds. Prior to the expulsion of any student, Maine law requires that the school board undertake a "proper investigation" followed by "due process proceedings." In addition, school boards may authorize a principal to suspend students up to a maximum of 10 days for infractions of school rules (see 20-A M.R.S.A. § 1001, sub-§ 9; Goss v. Lopez, 419 U.S. 565, (1975) "due process requires, in connection with a suspension of 10 days or less, that the student be given oral or written notice of the charges against him"). Maine law does not formally provide for teacher input or involvement into the suspension or expulsion process of a student.

Recommendation

The Commission recommends that legislation be enacted which includes a philosophical statement encouraging school boards to have policies that allow for greater input by teachers and other educational personnel concerning the removal of violent or disruptive students from the classroom and disciplinary and placement decisions.

The Commission recommends that the Maine Principal's Association (MPA) develop model policies and procedures which provide for greater input from teacher and other educational personnel in the removal of disruptive and violent students from the classroom. The Commission directs Commission staff to provide written notification to MPA regarding this recommendation.

The Commission further proposes that legislation be enacted which empowers a teacher to send a student from a classroom to the principal's office, and similarly

empowers a school bus driver to recommend the revocation of the privilege of riding on a school bus, for any student who:

- Engages in disorderly conduct;
- Threatens, abuses, intimidates or attempts to intimidate a school employee or student; or
- Uses profane or abusive language toward a school employee or student.

The teacher or bus driver should be required to state in writing the reason for sending the student to the principal's office. Once the student is removed from the classroom or the student's privilege to ride the school bus is revoked, the principal may take any necessary disciplinary action. If disciplinary action is taken, the principal should provide written notification of the disciplinary action taken to the parents or guardians of the student and should also provide a copy of the written notification to the teacher or bus driver who reported the student to the principal.

A majority of Commissioners approved this recommendation (vote: 9-2). Those voting in favor included Commissioners: Cathcart, Doiron, Grant, Morse, Nutter Bruce, Scott, Skoglund, Therrien and Walsh. Those voting against this recommendation were Commissioners Shubert and Stryker.

6. Providing timely reporting of student records between schools

The Commission heard testimony that access to information on students is frequently chaotic; schools, police and courts frequently do not communicate well and tend to keep their own records in separate "cubbyholes". Schools that are asked to accept transferred students often have difficulty obtaining discipline information from the students' former school. In addition, school personnel are often fearful that disclosing student discipline information will lead to student claims that the school violated the student's "right to privacy/confidentiality" or claims that the school violated the Family Educational Rights and Privacy Act (FERPA).

While FERPA is designed to discourage abusive and unwarranted disclosure of a student's education records, FERPA provides that schools may disclose any information on a student, without the parent's prior written consent, to officials of another school where the student seeks or intends to enroll. The Commission acknowledges the importance of ensuring that schools, parents and students understand the parameters of the student record and confidentiality laws. In addition, the Commission recognizes the importance of making sure that any school considering the admission of a student have immediate access to all suspension and expulsion information from any public school in Maine or any other state.

Recommendation

The Commission makes the following recommends to address these problem situations:

School Records to Transfer with the Student.

The Commission recommends enacting legislation to accomplish the following:

- Require that educational records must follow students who apply to transfer to a school in another school administrative unit in the State. Students who transfer from out of state schools are also subject to this requirement;

- Require every public school to send a notice to the parents or guardians of every student each year, consistent with Family Educational Rights and Privacy Act (FERPA) standards, indicating that educational records will be sent to a receiving school if a student applies to enroll in another school administrative unit; and

- Require the parents or guardians of a student who seeks admission into any public school to affirm in writing to the school whether the student has been suspended or expelled -- or is the subject of an expulsion proceeding -- from any public school in Maine or any other state. In the absence of a parent or guardian's written affirmation, and consistent with the provisions of the FERPA, a student who is emancipated, homeless or 18 years of age may provide written affirmation on their own behalf as to whether he or she has been suspended or expelled -- or is the subject of an expulsion proceeding -- from any public school in Maine or any other state.

Immediate Status Report.

The Commission also recommends enacting legislation which allows the receiving school administrative unit to promptly determine the disciplinary status of a student applying for transfer. Proposed legislation would accomplish the following:

- At the request of the receiving school administrative unit, the sending school administrative unit should provide, in a timely fashion, a verbal or written report to the receiving school administrative unit indicating whether the student has been suspended, expelled or is the subject of an expulsion proceeding.

- The Commissioner of Education has statutory authority to approve student participation in equivalent instruction programs. In accordance with Title 20-A, § 5001-A, sub-§ 3, ¶ A, sub-¶ 3, local school board officials may review the application for equivalent instruction and may submit comments to the

Commissioner. State law also prescribes the conditions upon which students receiving home instruction can participate or have access to public school programs, facilities and activities (pursuant to Title 20-A, §5021-§5025). With regard to suspended or expelled students who are involved in equivalent instruction programs, the Commissioner of Education should have discretion to limit participation in such public school programs. At the request of the Commissioner, local school board officials should promptly provide, in a timely fashion, a verbal or written report to the Commissioner indicating whether the student has been expelled or is presently involved in an expulsion process.

The Commission recommends that in the case of a student who has been expelled or is involved in an expulsion process, the receiving school administrative unit should retain discretion as to:

(a) Admission of a student applying for transfer; or

(b) Student access to public school programs, facilities and activities as part of a home instruction program pursuant to Title 20-A, §5021.

The receiving school administrative unit may deny admission or participation until it is satisfied that the conditions of the expulsion or suspension have been satisfied.

Expulsion Record Information Database.

The Commission further recommends that legislation be enacted requiring school administrative units to report information regarding student expulsions to the Department of Education, and further requiring the department to:

- Maintain a current file on expelled students; and
- Provide information to appropriate school unit officials regarding the disciplinary status of a student applying for transfer from one school administrative unit to another unit.

This set of recommendations was approved by a general consensus of those Commissioners present.

7. Establishing a task force to study the implementation of alternative programs and interventions for violent and chronically disruptive students.

The following findings support the Commission's conclusion that legislation establishing this task force is warranted at this time:

- The Commission recognizes the critical importance of alternative programs and placements for disruptive and violent youth as part of a successful, long

term school violence strategy. In addition to a strong discipline and communication strategy, it is equally important to provide resources to the disruptive and violent students, and their families, to help these students to control and modify these behaviors;

- The Commission finds that many schools lack resources for appropriate placement of students with behavioral disorders. In many instances, disruptive and violent students are left in unsupervised settings at home. Small or rural schools and communities need assistance in establishing regional cooperative efforts; and

- The Commission finds that the long-term success of alternative programs will be enhanced by incorporating existing local and regional community resources with a state alternative placement plan. The educational community must work closely with parents, students and the wider community (local, regional and state) to promote healthier, safe and drug-free schools. Schools should become involved with school-linked, community-based partnerships at local and regional levels such as Communities for Children, and other state, regional and local government programs. Agency officials should collaborate and share resources and information with human service and mental health professionals to ensure adequate support for at-risk students and families.

- The Commission recognizes the importance of an effective state-wide plan, and the importance of providing sufficient time to develop community-specific plans in conjunction with a state-wide effort.

Recommendation

The Commission recommends that a separate task force be established to study the provision of a continuum of interventions for violent and chronically disruptive students, including alternative educational settings for these students, the implementation of positive behavioral supports in classrooms and alternative community placements. This task force should be charged with establishing the means necessary, including the incorporation of local and regional resources and additional funding as required, to develop a continuum of interventions that may provide a broader range of programs and services for disruptive and violent students.

The Commission further recommends that the Joint Standing Committee on Education and Cultural Affairs determine the membership of this task force. The Commission recommends that this task force report its findings and conclusions to the Joint Standing Committee on Education and Cultural Affairs by December 1, 1999.

A majority of Commissioners approved this recommendation (vote: 12-2). Those voting in favor included Commissioners: Cathcart, Despres, Doiron, Dunphy, Johanson, Nutter Bruce, Shubert, Skoglund, Stockford, Stryker, Therrien and Walsh. Those voting

against this recommendation were Commissioners Grant and Morse, who have submitted a Minority Report attached as Appendix F).

8. Providing certain juvenile crime/conviction information to school officials

At the present time, Maine generally prohibits the disclosure of juvenile crime records, including arrest, petition and conviction records. see, 15 M.R.S.A. §§3307-3308. Two exceptions to this law with respect to juvenile conviction records specifically apply to school officials in the district where the student attends school:

a) Juvenile records may be disseminated if the juvenile is adjudicated as having committed a juvenile crime; the information is disseminated by and to specified persons and entities, including the superintendent (or designee) of the juvenile's school; and the information is relevant to and disseminated for creating or maintaining a rehabilitation plan. 15 M.R.S.A. §3308 (B-1).

b) If a juvenile is adjudicated of gross sexual assault, the Department of Corrections must provide a copy of a the judgment and commitment to specified persons and agencies, including the superintendent of any school the juvenile attends during commitment or probation. 15 M.R.S.A. §3308 (D).

The Commission heard testimony concerning the importance of improving the relationship between the local law enforcement agencies and schools, especially with regard to juveniles who pose a risk of violent behavior towards other students or school personnel. The Commission considered, however, the importance of safeguarding the confidentiality of juvenile crime and petition records.

Recommendation

The Commission recommends that legislation be enacted which directs the local district attorney to provide to the superintendent of the juvenile's school and the superintendent's designees the name of the youth and other information about the alleged charges in the following circumstances:

- If a petition has been filed against a juvenile for an alleged offense which alleges the use or threatened use of physical force against a person, or

- If a juvenile has been adjudicated as committing an offense described above.

The Commission further recommends that any information received under this paragraph should not become part of the student's education record and that any information received should remain confidential, except as otherwise provided by law.

The Commission specifically recommends legislation as follows:

Add a new paragraph "E" to 15 M.R.S.A. §3308 (7):

> (E) If a juvenile is currently charged in a juvenile petition or adjudicated of one or more juvenile crimes that allege the use or threatened use of physical force against a person, the district attorney in the district where the charges were brought shall provide to the superintendent of the juvenile's school and the superintendent's designees:
>
> (1) The name of a juvenile;
>
> (2) The nature of the offense;
>
> (3) The date of the offense;
>
> (4) The date of the petition;
>
> (5) The date of the adjudication and
>
> (6) The court where the case was brought.
>
> Any information received under this paragraph is confidential and may not be further disseminated, except as otherwise provided by law. Any information received under this paragraph shall not become part of the student's education record.

A majority of Commissioners approved this recommendation (vote: 11-2-1). Those voting in favor included Commissioners: Cathcart, Despres, Doiron, Dunphy, Grant, Johanson, Morse, Nutter Bruce, Shubert, Skoglund, and Walsh. Those voting against this recommendation were Commissioners Therrien and Stryker, who have submitted a Minority Report attached as Appendix F). Commissioner Stockford abstained.

9. Providing information to law enforcement officials

The Improving America's Schools Act of 1994 (IASA) amended FERPA to permit educators, pursuant to a State statute, to disclose information to State and local officials, as long as the disclosure concerns the juvenile justice system. As a result, schools in States that have passed such statutes may now disclose information on students to other local and State agencies. Although a student's education records may be shared with a school's law enforcement unit, the law enforcement unit may not disclose the education records without prior parental or student consent (if the student is 18 years or older) or under a specified exception in FERPA.

Recommendation

The Commission therefore recommends that legislation be enacted which requires the school superintendent to provide information to local police or other appropriate law enforcement authorities with regard to the following offenses committed by any person on school grounds:

- Any offense which would be a felony if committed by an adult;
- Any offense which involved violence that resulted or had the potential to result in serious injury;
- Any offense which involved the use of a weapon against a person; or
- Any offense which involved a controlled substance.

The information provided should include the nature of the offense, and the name and address of the offender. The Commission recommends that the superintendent provide this information to the police or other appropriate law enforcement authorities as soon as practicable.

A majority of Commissioners approved this recommendation (vote: 9-5). Those voting in favor included Commissioners: Cathcart, Despres, Doiron, Dunphy, Grant, Johanson, Morse, Skoglund, and Walsh. Those voting against this recommendation were Commissioners Nutter Bruce, Shubert, Stockford, Stryker and Therrien.

10. Providing immunity protections for school personnel

The Commission heard testimony that many schools sought to avoid disclosing violent or disruptive incidents that take place on school property. As a result, many teachers and school personnel were unwilling to raise safety or other concerns with school officials for fear that they would be retaliated against by the school administration.

The present "Whistleblower's Protection Act", 26 M.R.S.A. § 831 et seq. prohibits employers from discriminating against an employee who reports orally or in writing to the employer or a public body what the employee has reasonable cause to believe is a condition or practice that would put at risk the health or safety of that employee or any other individual.

Recommendation

The Commission recommends that legislation be enacted which requires protection from employment discrimination or retaliation specifically for school personnel who report safety concerns to school officials with regard to violent or disruptive students.

Commissioners unanimously approved this recommendation (vote: 14-0). Those voting in favor included Commissioners: Cathcart, Despres, Doiron, Dunphy, Grant, Johanson, Morse, Nutter Bruce, Shubert, Skoglund, Stockford, Stryker, Therrien and Walsh.

11. Support for violence prevention and intervention programs for teachers, staff and students

Conflict resolution education.

Research findings indicate that peer mediation programs reduce conflict and aggressiveness and improve staff and student perspectives regarding the school environment. Conflict resolution education programs should include instruction in the following areas: (a) the consequences of violent behavior; (b) the causes of violent reactions to conflict; (c) nonviolent conflict resolution techniques and (d) the relationship between drugs, alcohol and violence.

Testimony presented to the Commission indicated that more than 100 Maine schools have started peer mediation programs and that during the past six years over 2,000 students that have received peer mediation training. To expand upon the success of these efforts, the Commission proposes that the Department of Education identify the resources necessary to support grant funding and technical assistance for demonstration projects which can provide the benefits of conflict resolution education programs to more schools and communities across the State.

Recommendation

The Commission recommends that legislation be enacted which supports conflict resolution education for grades K-12, including training and development for educators and peer mediation programs for students. The Commission proposes that the State provide additional funding for conflict resolution education programs and further proposes that the Department of Education seek funding to implement a grant program to further support existing conflict resolution education programs in the schools and to provide technical assistance to other school administrative units across the State that seek to establish conflict resolution education and peer mediation programs.

Civil Rights Team Project.

In just three years, the Department of the Attorney General has supported the establishment of Civil Rights Teams in over 100 schools. These programs empower our youth and nurture a growing nucleus of peer role models who serve to change the culture in our schools by encouraging students to stand up and do the right thing. This program is succeeding in raising awareness and encouraging early reporting of acts of harassment.

Recommendation

The Commission recommends that the State increase funding for the Attorney General's Civil Rights Team Project. Continued funding will expand the development of this intervention and further enable the Department of the Attorney General to reach more students and school personnel through its in-service training programs.

Identification and response to early signs of violent behavior.

Commissioners received testimony indicating that the so-called "pooled-flexible funding" model is a promising approach that can extend the benefits of expensive training programs to more schools than can currently afford such programs.

Recommendation

The Commission recommends that legislation be enacted which provides the necessary training that can help teachers and other school personnel identify and respond appropriately to violent and disruptive student behavior. The Legislature should determine how to utilize existing federal, state, local and private funding sources to provide educators with appropriate training that can develop the fundamental skills necessary to help diffuse initial inappropriate behaviors that may evolve into increasingly disruptive and more violent behavior.

Commissioners unanimously approved this recommendation (vote: 14-0). Those voting in favor included Commissioners: Cathcart, Despres, Doiron, Dunphy, Grant, Johanson, Morse, Nutter Bruce, Shubert, Skoglund, Stockford, Stryker, Therrien and Walsh.

APPENDIX A

Resolve 1997, Chapter 119

RESOLVES 1997, CHAPTER 119
(H.P. 1520 - L.D. 2142)

Resolve, To Establish the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings

Sec. 1. Commission established. Resolved: That the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings, referred to in this resolve as the "commission," is established; and be it further

Sec. 2. Membership. Resolved: That the commission consists of 17 members appointed as follows:

1. Two Legislators who are members of the Joint Standing Committee on Education and Cultural Affairs and who jointly chair the commission, one of whom must be a Senator appointed by the President of the Senate, and one of whom must be a member of the House of Representatives appointed by the Speaker of the House;

2. The Commissioner of Education, or the commissioner's designee;

3. The Commissioner of Corrections, or the commissioner's designee;

4. The Commissioner of Human Services, or the commissioner's designee;

5. The Commissioner of Mental Health, Mental Retardation and Substance Abuse Services, or the commissioner's designee;

6. The Attorney General, or the Attorney General's designee;

7. One member representing parents appointed jointly by the Maine Parents' Federation, Maine Advocacy Services and the Maine Alliance for the Mentally Ill;

8. One member representing parents whose children attend a public school in the State, appointed by the President of the Senate;

9. One member who is a student representing a peer mediation group in the State, appointed by the President of the Senate;

10. Two members representing teachers who are public school teachers in the State, appointed by the Maine Education Association;

11. One member representing educational technicians in the State, appointed by the Speaker of the House;

12. One member representing school bus drivers in the State, appointed by the Speaker of the House;

13. One member representing superintendents in the State, appointed by the President of the School Superintendents Association;

14. One member representing school principals in the State, appointed by the President of the Maine Principals Association; and

15. One member representing school boards in the State, appointed by the Maine School Boards Association; and be it further

Sec. 3. Appointments; meetings. Resolved: That all appointments must be made no later than 30 days following the effective date of this resolve. The appointing authorities shall notify the Executive Director of the Legislative Council upon making their appointments. When the appointment of all members is complete, the Chair of the Legislative Council shall call and convene the first meeting of the commission no later than August 15, 1998; and be it further

Sec. 4. Duties. Resolved: That the commission shall study the establishment and the effectiveness of districtwide school disciplinary policies and practices in the State and develop a plan to address the growing concern of violence in the public schools. In examining these issues, the commission may conduct public hearings to receive testimony on the incidence of disruptive student conduct and violent behavior in the public schools throughout the State. The commission review must include, but is not limited to, the following components:

1. The collection and analysis of available data related to the incidence of disruptive student conduct and violent behavior in the public schools throughout the State;

2. Effective districtwide school disciplinary policies, procedures and practices that seek to prevent or respond to disruptive or violent student conduct in the public schools;

3. The establishment of suggested student conduct and responsibility standards; and

4. The establishment of a system for notifying staff regarding a student with a history of violent behavior; and be it further

Sec. 5. Staff assistance. Resolved: That the commission shall request staffing and clerical assistance from the Legislative Council; and be it further

Sec. 6. Meetings. Resolved: That the commission may meet up to 4 times; and be it further

Sec. 7. Reimbursement. Resolved: That the members of the commission who are Legislators are entitled to receive the legislative per diem, as defined in the Maine Revised Statutes, Title 3, section 2 for each day's attendance at meetings of the commission. All members of the commission are entitled to reimbursement for travel and other necessary expenses, upon application to the Legislative Council. The Executive Director of the Legislative Council shall administer the commission's budget; and be it further

Sec. 8. Report. Resolved: That the commission shall submit its report together with any accompanying legislation to the Joint Standing Committee on Education and Cultural Affairs of the 118th Legislature by October 30, 1998; and be it further

Sec. 9. Appropriation. Resolved: That the following funds are appropriated from the General Fund to carry out the purposes of this resolve.

	1998-99
LEGISLATURE	
Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings	
Personal Services	$440
All Other	4,900

Provides funds for the per diem of legislative members, expenses of members and public hearing and miscellaneous costs of the Commission to Study Providing Educators with More Authority to Remove Violent Students from Educational Settings.

LEGISLATURE TOTAL	$5,340

(General effective date is July 9, 1998)

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APPENDIX B

List of Commission Members

COMMISSION TO STUDY PROVIDING EDUCATORS WITH MORE AUTHORITY TO REMOVE VIOLENT STUDENTS FROM EDUCATIONAL SETTINGS
(Resolves, Chapter 119)

Commission Membership

Appointed by the Senate President

Senator Mary Cathcart, **Co-Chair** 120 Main Street Orono, Maine 04473	Education and Cultural Affairs Committee
Ms. Vanessa Nutter Bruce PO Box 225 West Enfield, Maine 04493	Representing Parents of Children in Public Schools
Christina Dunphy 477 Stillwater Avenue, Trailer #6 Bangor, Maine 04402	Student Representing Peer Mediation Group

Appointed by the Speaker

Representative James Skoglund, **Co-Chair** HC 61, Box 1055 St. George, Maine 04857	Education and Cultural Affairs Committee
William True 8 Summer Street Winthrop, Maine 04364	Representing School Bus Drivers
Rick Hayward 12 Pleasant Street Waterville, Maine 04901	Representing Educational Technicians

Appointed Jointly by the Maine Parents' Federation, Disability Rights Center, and Alliance for the Mentally Ill

Russell F. Stryker, Esq. Director, Development Disabilities PO Box 2007 24 Stone Street Augusta, Maine 04338-2007	Representing Parents

Appointed by the Maine Education Association

Prudence Grant 23 Free Street Lisbon Falls, Maine 04252	Representing the Maine Education Association
James H. Morse HC 64, Box 224 Brooklin, Maine 04616	Representing Teachers

Appointed by the Maine School Boards Association

Phyllis M. Shubert
38 Summit Avenue
Bangor, Maine 04401

Representing School Boards in the State

Appointed by the Maine Principals Association

Elizabeth Johanson, Principal
Lincoln Elementary School
40 Lincoln Street
Augusta, Maine 04330

Representing Principals in the State

Appointed by the President of the School Superintendents Association

Richard Abramson
600 Limerick Road
Arundel, Maine 04046

Representing Superintendents in the State

Ex Officio

J. Duke Albanese, Commissioner
Department of Education
23 State House Station
Augusta, Maine 04333-0023

Commissioner of Education

Ann Therrien
Department of Corrections
Regional Correctional Administrator
Juvenile Services Region II
PO Box 3098, 79 Main Street
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Commissioner's Designee, Department of Corrections

Peter Walsh, Deputy Commissioner
Department of Human Services
11 State House Station
Augusta, Maine 04333-0011

Commissioner's Designee, Department of Human Services

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APPENDIX C

Meeting Summaries: Potential Findings and Recommendations

Commission on School Violence - Meeting #1 Summary POTENTIAL FINDINGS & RECOMMENDATIONS			
Data Collection & Analysis	**Effective Policies & Practices**	**Statewide Conduct Standards**	**Right to Know / Notification**
Youth Risk Behavior Survey (1997) 11% carried weapon in school; 4% didn't go to school because they felt unsafe; 8% were threatened or injured with weapon at school; 14% were in a physical fight at school	Communication between school and parents is critical	Review DOE proposal to develop statewide student conduct and responsibility standards	Teachers don't lose civil rights at schoolhouse door
Alcohol & Other Drug Study (1996) 18% don't feel safe at school; 10% report fighting in school	Provide "bullyproofing schools" training to educators and students	Review implementation of anti-hazing and civil rights statutes	Preventive sentencing program in SAD #48 has grant to set up database to track students
Safe & Drug Free Schools Data (1997 actual incident reports; only 66 of 282 LEAs reported) of 7,849 offenders in K-12 (26% elem., 36% middle, 38% sec.), 170 had weapons, 833 abused substances, 22% were special ed.; of 4,080 victims, 19% were special ed.	Professionally-trained classroom teachers are in a position to see students' behavior patterns, yet administrators play an impartial role in sorting out actions, providing due process and implementing consistent policy enforcement	Review IDEA Reauthorization - 1997 amendments and regulations for new requirements regarding disciplining special ed. students	LEA access to educational records can help establishing appropriate program for students
UM "challenging behaviors" study (1997-98) - 32 ME principals (see strategies under "effective policies & practices")	Designate specialists to intervene (special education, guidance counselors, education technicians, outside consultants, student assistance teams)	State should set common expectations and standards for all schools; should provide training and resources to support LEAs	While teachers need to be informed about juvenile criminal records and educational records, concerned that children will be condemned by new community
NEASC School Climate Survey (1997 & 1998 data from 8,000 secondary students in 22 ME schools) indicates lack of respect for peers, property and educators; students alienated from peers, from educators and from the community (especially tuition students)	Develop capacity of students and teachers (peer mediation, student conduct codes, anger management, principal's advisory team); contract programs from outside of school (commercial programs such as Actors of ME)	State role should be to gather best practices from LEAs, allow LEAs to tailor their own policies and provide resources to train educators	

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Data Collection & Analysis	Effective Policies & Practices	Statewide Conduct Standards	Right to Know / Notification
IDEA Reauthorization 1997 regulations - how will DOE track expulsions of special ed. students (greater than 10 days) by handicapping condition as required?	Communicating expectations (removal of privileges, in-school suspension, after-school detention); increase parental involvement (some parents see this as an intrusion)		
Many school officials not willing to air their "dirty laundry"; research should focus on outcomes of prevention and intervention programs, not just report # of incidents	"Sense of belonging" research shows that extra- and co-curricular involvement increases student's "assets" and feelings of membership and belonging		
Data collection can be improved by providing LEAs with "win-win" rationale; also by funding Maine Ed. Policy Research Institute	Teacher preparation programs should incorporate coursework and placement with mentor-teachers		
Disruptions and violence tremendously affect climate; small minority of students will not internalize consequences involved; referral to juvenile justice is not timely or significant; there aren't meaningful alternative ed. programs	Provide LEAs with authority to establish corporal punishment policies and practices; give teachers authority to remove disruptive students; implement restorative justice programs		
Maine schools have over 2,000 peer educators	Old Town H.S. proactive approach - clearly-defined discipline policies w/consequences, yet ability to deal with children as individuals; mutual-respect, cooperation, teamwork and consideration; civil rights and conflict resolution training		
	To have an impact, public policy should focus on reaching kids before 3rd grade (8 years old) before chances for success diminish		

Commission on School Violence - Meeting #2 Summary POTENTIAL FINDINGS & RECOMMENDATIONS			
Data Collection & Analysis	**Effective Policies & Practices**	**Statewide Conduct Standards**	**Right to Know / Notification**
1975 Supreme Court ruling affirmed due process/property right to attend school; state & federal law allow LEAs to suspend up to 10 days cumulatively; state law allows school boards to expel students to "maintain the peace and usefulness of the school"	IDEA 1997 permits LEA to expel special education student up to 45 days for violation of federal weapon or drug law, but state law may still limit LEA authority; least restrictive environment standard often precludes alternative placements	Anti-hazing statutes also address bullying; allow LEAs to set anti-hazing rules on or off campus and to establish penalties; requires board to assign authority to superintendent, set up appeal process and distribute policies to students	Access to information on students is chaotic; schools, police and courts have records in separate in separate "cubbyholes"; amend statutes to permit exchange of factual information, particularly if student has a severe history of violent behavior
Difficult to document disruptive acts that aren't criminal behavior; confidentiality rules prevent teachers from sharing information that may enhance school safety	Lewiston H.S. has "zero tolerance" policy for assaults on teachers and other students; immediate response of police officer on duty in school makes teachers feel more safe	Anti-hazing and civil rights statutes should be expanded to protect teachers and other school officials	Access to triggering behavior, not necessarily criminal record can help school officials design educational plan for student
Elementary grade students play-acting aggressive behavior on playground, increasing bullying behavior, willingness to be defiant and confront adult authority	State law allows regional compacts for alternative education programs; Waldo County and Old Town have good programs; state incentives can promote these compacts	Parallel set of statewide student conduct and responsibility standards needed to protect every student's right to learn and meet Learning Results standards	FERPA provisions allow in-school disciplinary policy offenses to be made available
While only a few kids are involved in violence, incidence and type of violence is increasing in H.S.: knives, guns, pellet guns and drugs are confiscated; teachers report being verbally harassed, hit, kicked, punched and stabbed with pens	Code of conduct communicates behavioral expectations to students and parents; social skills program within a "responsive classroom" promotes student taking responsibility for behavior; consequences for misbehavior include mandatory behavior plan		Not necessary to tinker with FERPA since anyone with legitimate educational reason can gain access to educational record; IDEA reauthorization also involves regular education teachers in developing IEP
State law allows teachers to use "reasonable force" to protect themselves or to remove a student from a harmful situation; LEA policy can define "reasonable force" and should do so to support teachers	Allowing LEAs to suspend students for more than 10 days for extreme misbehavior may provide a more reasonable timeframe to investigate, prepare for hearing or conduct assessment for alternative placement		Parental consent required to release juvenile criminal records to school officials; except when school is involved in rehabilitation plan or for juvenile convicted of gross sexual assault

Data Collection & Analysis	Effective Policies & Practices	Statewide Conduct Standards	Right to Know / Notification
Establishing in-school prevention & intervention programs with local law enforcement works; yet lack of money is a barrier to municipalities without local police departments	Suspensions should require mandatory psychological assessment and establish a behavioral contract before student can return to school		FERPA not the problem, but trend in criminal law has been to make more exceptions to the release of juvenile criminal records
Research identifies many reasons why kids are violent: kids feel unsafe in school, kids are confronted with violence, drugs, harassment; kids need structure and social skills to control impulses, solve problems, resolve conflicts	State law should give teachers authority to suspend student for up to 5 days; and provide teachers with blanket immunity		
Juvenile courts fail to provide an immediate, meaningful response (it may take 5-6 months from the incident before a court date is scheduled)	Effective diversion and alternative sentencing programs are needed for juveniles charged with criminal offenses; Jump Start program and other informal adjustment alternatives may provide a middle course between school sanctions and MYC sentencing		
Schools lack resources for appropriate placement of students with behavioral disorders, or students coming off parole; programs, service providers and transportation are often unavailable	Locally-developed models seem to work; LD 2242 provision would promote developing hallmarks of effective policies and programs		

Commission on School Violence - Meeting #3 Summary POTENTIAL FINDINGS & RECOMMENDATIONS			
Data Collection & Analysis	**Effective Policies & Practices**	**Statewide Conduct Standards**	**Right to Know / Notification**
Lewiston Sun Journal articles chronicled youth violence involving Edward Little H.S. students - fight between members of two rival gangs, hate crime @ Temple, drive-by pellet gun shooting	Edward Little H.S. safe school plan - school resource officers; monitor & limit access; peer mediation; school climate committee focus on safety for students and staff; off-campus, alternative program for grades 7-9 & 10-12 has 95% graduation rate	Hazing statutes should be implemented and enforced, recommend that school officials disseminate hazing policy to students, parents and community members	Need open relationship between police department and schools; must work to overcome fear of communicating what may be confidential information about at-risk youth
Educators and community officials need to get rid of "not my school" attitude - tobacco use, substance abuse and violence are found in schools, homes and businesses	Schools need funding for staff development and peer mediation programs; answers lie in providing tools via training for staff and students in conflict resolution and peer mediation		
School psychologist indicated that safe schools are the result of widespread, community-based responses	Administrators sensing immediate risk should spread response across the community: assess protective factors with parents & school counselor, contract with parents for emergency services, clinical assessment, police; determine educational program later		
Risk and danger assessment is difficult to accomplish - anger is a state and must be determined in the context of individual, situation and environment; can only identify immediate, high-risk states; at best, assessment valid for 3-7 days	100+ peer mediation programs started in Maine schools over last 6 years; often within conflict resolution program, a peacemaking process where students learn to express emotions and develop communication, problem-solving and conflict-resolution skills		

Data Collection & Analysis	Effective Policies & Practices	Statewide Conduct Standards	Right to Know / Notification
Schools need access to fluid range of transitional programming and alternative settings for disruptive students, including sheltered workshops within the community	Civil Rights Team Program began in 1996 with 18 schools, grew to 56 in 1997 and 100 by 1998; AG provides 40-60 in-service training programs per year; program purpose is to raise awareness and encourage early reporting of acts of harassment		
School counselor provides affective skill development curriculum - problem solving, conflict resolution, career planning, self-empowerment, social skills and behavior management; clean up after fights; frustrating to find alternative placements	Power of Civil Rights Teams come from developing peer role models and encouraging to stand up and do the right thing; growing nucleus of peer role models can change culture in schools		
Research findings indicate peer mediation reduces conflict and aggressiveness, increases perspective taking, improves staff and student perspectives of school environment, impact on suspensions and violent incidents is still unclear	AG reports restraining orders effective intervention for harassment (5 violations in 150 orders); yet, orders fail to prevent further civil rights violations, see steady increase in complaints and drop in age of both accused perpetrators and victims		
Harassment stems from prejudice and pattern of degrading language; harassment of 12 yr. old in Sabattus (thought to be gay) escalated from name-calling to physical assault, to having noose around neck and threat of shooting before harassment was reported	Students must be held accountable for actions in school; student assault on teacher must have swift response and accused should be brought directly to judge		
DOE receives lots of calls from parents regarding hazing incidents			

Bath Police working with school officials and parents to provide diversion programs; also working with school to develop crisis response plan	Jump Start, an 8-week program on decision-making, involves adult mentors from the community; Volunteers of America program provides case workers to intervene with at-risk youths to help deal with anger and resolve problems		
Research-based "developmental asset" approach (Search Institute) involves all sectors of community in assessing realities facing children and focusing on 40 building blocks that renew community and help youth grow up healthy, caring and responsible	Communities for Children prevention initiatives foster partnerships between state and local communities to increase children's educational achievement and well-being; 52 partner communities in state		

APPENDIX D

Civil Rights Cases in Maine

Recent Hate Crimes in Maine involving Maine Students

Information obtained from the Department of the Attorney General
Civil Rights Unit, Fall 1998

Case 1

On May 22, 1998, the Department filed a civil rights case against three seventh grade students at Sabattus Elementary School who had engaged in a series of acts of violence and threats of violence against a fellow seventh grader who they believed to be gay. The conduct originally started with homophobic name calling. In early January one of the defendants punched the victim in the head with a closed fist. In mid-April another one of the defendants told the victim that he was going to shoot the victim and another boy with a gun and then commit suicide. Later in April the same defendant brought a hangman's noose to school and placed it around the victim's neck, keeping it tight for around 30 seconds before the victim was able to get it off. At the end of April two of the defendants attacked the victim in the bathroom and tried to stuff his head into a urinal. In early May two of the defendants again attacked the victim several times. Then while one of the defendants was holding the victim the other defendant punched the victim in the stomach several times with his fist. All three defendants have consented to the entry of injunctions.

Case 2

In mid-December 1997, the Defendant attacked a fellow high school student at Cony High School in Augusta in the school hallway. The Defendant was with a group of other students when one of them said "There goes that faggot. Let's get him." The Defendant then knocked the student down, kicked him in the side, pulled him by his hair and slammed his head against the floor. Finally, the Defendant ground the victim's glasses into the ground with the heel of his shoe. Since that time the Defendant has continued to harass the victim with homophobic slurs and to threaten violence against the victim. The Defendant has now been subject to a permanent restraining order prohibiting him from further violence or threats directed toward the victim or any other person because of their actual or perceived sexual orientation. A permanent injunction is in effect.

Case 3

On October 1, 1997 the four Defendants, three of whom were juveniles and one of whom was aged 21, yelled racial slurs including "gook", "chink" and "slope", at a man of Filipino descent who was waiting to meet with two friends outside of Mountain Valley High School in Rumford. The victim attempted to diffuse the situation by telling the Defendants he had no problem and offering to shake their hands. As the victim and his friends began to walk away the Defendants continued to yell racial slurs and to throw apples the size of baseballs

with considerable force at the victim and his friends. The Defendants followed the victim and his friends down the street continuing to yell racial slurs and throw apples. The Attorney General's Complaint seeks a restraining order against all four Defendants. A permanent injunction is in effect.

Case 4

A high school student at Cony High School in Augusta, as part of his initiation into a group or gang called the "Scorpions", followed and beat up another student who the Defendant and other teens thought was gay. The group of teens, including the Defendant, chased the victim up the stairway of an apartment building where the group yelled homophobic slurs while the defendant punched and kicked the victim in the head. The Defendant finally grabbed the victim and holding the victim with his back to the third floor railing of the outside staircase said "You're lucky I didn't throw you over. Next time I'll do it." A permanent injunction is in effect.

Case 5

The defendants, two 16 year old students at Messalonski High School in Oakland, engaged in anti-Semitic slurs and violence directed at a 10th grade Jewish boy. On one occasion, in the fall of 1997, the first Defendant along with another student confronted the victim in a bathroom, made anti-Semitic slurs and hit the victim in the face. In late April, the second Defendant confronted the victim on an athletic field, told him he "should be put in an oven" and punched him in the face. The case is still pending.

Case 6

During the fall of 1997, in two separate incidents, two students at Thornton Academy threatened a 15 year old class mate at who they thought was gay. In the first incident, one of the defendants was a passenger in a vehicle which drove at and almost struck the 15 year old. As the vehicle drove by the defendant yelled "run faggot". In the second incident, the 15 year old was in the home economics room preparing a meal. The Defendant held a paring knife 1 to 2 inches from the 15 year olds neck and said "Do you want me to slit your throat and put you out of your misery?" The Defendants have consented to the entry of injunctions.

SUMMARY OF THE MAINE CIVIL RIGHTS ACT

The Maine Civil Rights Act prohibits anyone from:

(1) intentionally interfering with another person's right to engage in lawful activities,

(2) through the use of violence, threat of violence or property damage,

(3) when the conduct is motivated by bias toward the victim because he or she is a minority.

The statute specifically applies to bias based on race, color, religion, ancestry, sex, national origin, sexual orientation and physical or mental disability. The statute authorizes the Attorney General to file a suit in Superior Court seeking an injunction ordering the conduct to stop. Additionally, the Attorney General is authorized to recover from the defendant the costs of the State's attorneys and a civil penalty of up to $5,000. A defendant who knowingly violates a civil rights injunction can be charged with a Class D crime punishable by up to 1 year in jail.

APPENDIX E

Additional Information on Other States' School Safety Programs

COMMISSION TO STUDY PROVIDING EDUCATORS WITH MORE AUTHORITY TO REMOVE VIOLENT STUDENTS FROM EDUCATIONAL SETTINGS

Summary of School Violence Legislation From Selected States

I. Juvenile Court Records Legislation

Georgia

- Within 30 days of any proceeding in which a child 13 to 17 years of age is convicted the superior court shall provide written notice to the school superintendent. Such notice shall include the specific criminal offense that such child committed.
- A local school system to which the student is assigned may request further information from the court's file
- If the student has been convicted of an offense which is a designated felony, administrator shall so inform all teachers to whom the student is assigned.

Michigan

30 days after conviction or adjudication the pupil's parent or legal guardian shall:

- notify school officials of the conviction, and
- execute any waivers or consents necessary to allow school officials access to court records concerning the conviction or adjudication.

If legal guardian seeks to enroll the pupil in a school district other than the school district in which he or she resides, guardian must:

- disclose to school officials that the pupil has been expelled
- disclose to school officials each of the criminal or juvenile court convictions and
- execute any waivers or consents necessary to allow school officials access.

Kentucky

- court shall notify the principal if child is adjudicated guilty of a violent offense
- name of the complainant shall be deleted
- the county attorney may give the school a statement of facts in the case.
- Records or information disclosed shall not be disclosed to any other person, including school personnel, except to public or private elementary and secondary school administrative and counseling personnel, and to any teacher to whose class the student has been assigned for instruction

West Virginia (arrest records disclosed under certain conditions)

- juvenile arrest records shall be disclosed to the county superintendent and to the principal of the school which the juvenile attends under the following circumstances:
    - juvenile has been charged with an offense which would be a felony, or involved violence or the use of a weapon against a person or involved a controlled substance
    - A judge, magistrate or referee has determined that there is probable cause to believe that the juvenile committed the offense as charged;
    - The principal has a duty to disclose arrest information to any teacher who teaches a class in which the subject juvenile is enrolled
    - information must be treated as absolutely confidential by the school official to whom they are transmitted, and nothing contained within the juvenile's records shall be noted on the juvenile's permanent educational record- duty to promptly correct any mistake that he or she has made in disclosing juvenile records
    - One year after the juvenile's eighteenth birthday, law-enforcement files and records shall be sealed by operation of law.
    - The notice from the court to the school shall contain a statement that "our legal system requires a presumption of innocence."
    - records of a juvenile proceeding shall be sealed by operation of law if the juvenile is subsequently acquitted
    - No discrimination is allowed against any juvenile in any manner due to that juvenile's prior involvement in a proceeding under this article if that juvenile's records have been expunged
    - The court shall forward the juvenile's records to the juvenile's new school

Maryland

- If a child enrolled in the public school system is arrested for a reportable offense, (crime of violence or other enumerated crimes) the law enforcement agency making the arrest shall notify the local superintendent of the arrest and the charges within 24 hours of the arrest or as soon as practicable.

- Information is to remain confidential, and not be made part of the child's permanent educational record.

II. Alternative Programs- (Educational alternatives for expelled students.)

Maryland

Special programs for disruptive students.

- Each county board of education and the Board of School Commissioners shall establish special programs for students in the public school system who exhibit disruptive classroom behavior.

- The State shall appropriate an amount of money for allocation by the State Department of Education to local education agencies to support the development and expansion of special programs for disruptive youth.

- Local education agencies may apply for State support for special programs for disruptive youth. Proposals for funding shall include:

  (1) An assessment of the number of student needs
  (2) Specific plans with goals and measurable objectives
  (3) Adherence to the State Board regulations on disciplinary policies
  (4) procedure involving the participation of administrators, teachers, parents, students, and other members of the community; and
  (5) In-service training and staff development for administrators, teachers, and other school personnel.

Colorado

- Each school district shall adopt policies to:

  - identify students who are at risk of suspension or expulsion from school, and
  - provide at risk students with the necessary support services to help them avoid expulsion.

- Upon expulsion of a student, the school district shall provide information to the student's parent or guardian concerning the educational alternatives available to the student during the period of expulsion.

- The school district shall contact the expelled student's parent or guardian at least once every sixty days until the beginning of the next school year to determine whether the student is receiving educational services from some other source.

- Upon request of a student or the student's parent or guardian, the school district shall provide, for any student who is expelled from the school district, any educational services that are deemed appropriate for the student by the school district.

- The expelling school district may provide educational services in cooperation with one or more other school districts, boards of cooperative services, or pilot schools

Services for at-risk students - agreements with state agencies and community organizations.

- Each school district, regardless of the number of students expelled by the district, may enter into agreements with appropriate local governmental agencies to provide services to any student who is identified as being at risk of suspension or expulsion or who has been suspended or expelled and to the student's family. (such services may include):

  (a) Educational services;
  (b) Counseling services;
  (c) Drug or alcohol-addiction treatment programs;
  (d) Family preservation services.

The Expelled Student Services Grant Program.

A pilot school may annually apply for a grant (to provide educational and support services for expelled students)

Any awarded program shall Provide:

- supervision, discipline, counseling, and continuous education for a suspended student with the goal of maintaining the education of a suspended student and preventing further disruptive behavior, subsequent suspension, or expulsion;

- Provide for a transitional stage from in-school or in-home suspension to regular school activities;

- Include an agreement by the participating public school that any student suspended (for specifically enumerated reasons) shall be included in the program;

- Include an evaluation phase based on the collection of data that shall measure effectiveness of the program;

A program may include, but need not be limited to, any of the following:

(a) Programs that utilize new instructional, counseling, or disciplinary concepts;

(b) Programs that utilize current public school staff or other personnel;

(c) Programs that encourage parental participation and involvement;

(d) Programs that employ individualized instruction, computer-assisted instruction, or other automated equipment for instruction;

(e) Programs that provide behavioral modification or anger management techniques.

In awarding grants, the state board shall consider the following criteria:

- costs incurred by the applying school district in providing educational services
- number of expelled students receiving educational services
- quality of educational services
- cost-effectiveness of the educational services
- amount of funding received by the school district

Each proposal must include a breakdown of all costs that would be incurred upon approval of the program.

Georgia

- It is the policy of this state that it is preferable to reassign disruptive students to isolated and individual oriented in-school suspension programs or alternative educational settings rather than to suspend or expel such students from school.
- The State Board of Education is authorized to create an alternative school program for students in grades 6 - 12 to serve students who violate the student code of conduct. This program shall provide individualized instruction and intervention. In addition, this program shall provide transition assistance to other programs that can help these students become successful students and good citizens.
- The educational program for an alternative school must include the objectives of the quality core curriculum, ensuring that the instructional program will enable students to make the transition to a regular school program
- state board is authorized to grant alternative school status on a multiyear basis, not to exceed five years
- If a school district is granted alternative school status for one or more schools and fails to comply with the (enumerated) requirements for annual reporting, state funding may be withheld.

- Each local board of education is authorized to refuse to readmit or enroll any student who has been suspended, expelled or denied enrollment in a local school system, as appropriate and in the best interest of the student and the education of other students within the school system.

III. Violence Prevention and Conflict Resolution Education

Illinois

- School districts shall provide instruction in violence prevention and conflict resolution education for grades 4 through 12 and may include such instruction in the courses of study regularly taught therein. School districts may give regular school credit for satisfactory completion by the student of such courses.

- As used in his section, "violence prevention and conflict resolution education" means and includes instruction in the following:

includes instruction in the following:

1. The consequences of violent behavior.
2. The causes of violent reactions to conflict.
3. Nonviolent conflict resolution techniques.
4. The relationship between drugs, alcohol and violence.

- The State Board of Education shall prepare and make available to all school boards instructional materials that may be used as guidelines for the development of violence prevention program under this section; provided however that each school board shall determine the appropriate curriculum for satisfying the requirements of this Section. The State Board of Education shall assist in training teachers to provide effective instruction in the violence prevention curriculum.

Florida

(Alternative School Funding Formula)

- The clerk of the circuit court of the county is authorized to create a juvenile assessment center and suspension school account

- Moneys deposited into the account shall include the proceeds of a $3 surcharge which shall be assessed as a court cost by both the circuit court and the county court in the county against every person who pleads guilty or nolo contendre to, or is convicted of,

regardless of adjudication, a violation of a state criminal statute or a municipal ordinance or county ordinance

IV. Suspension/Expulsion

Maryland

Procedures for suspension of not more than 10 school days:

- The student or his parent or guardian promptly shall be given a conference with the principal and any other appropriate personnel

Suspension for more than 10 school days or expulsion.

- At the request of a principal, a county superintendent may suspend a student for more than 10 school days or expel him. Upon expulsion, the superintendent or his designated representative promptly shall make a thorough investigation of the matter. If after the investigation the county superintendent finds that a longer suspension or expulsion is warranted, he promptly shall arrange a conference with the student and his parent or guardian.

- the student or his parent or guardian may:

  (i) Appeal to the county board within 10 days after the determination;
  (ii) Be heard before the county board,
  (iii) Bring counsel and witnesses
  (iv)the hearing shall be held out of the presence of all individuals except those whose presence is considered necessary or desirable by the board.
  (v) The decision of the county board is final.

APPENDIX F

Minority Report Recommendations

MINORITY REPORT REGARDING RECOMMENDATION # 7 OF THE COMMISSION TO STUDY PROVIDING EDUCATORS WITH MORE AUTHORITY TO REMOVE VIOLENT STUDENTS FROM EDUCATIONAL SETTINGS

Alternative Education Programs

This minority report is submitted by Commissioner's Grant and Morse.

The Commissioner of Education shall establish a program to award grants to school districts that apply for assistance in providing alternative educational opportunities for students whose demonstrated disruptive behavior indicate that they cannot adequately be served in the traditional classroom setting. The Commissioner shall solicit applications from school districts and shall make grants from funds appropriated for that purpose in such amounts and on such terms as he/she determines best encourages the development of alternative education programs throughout the state.

School districts may submit joint applications and are encouraged to pursue regional approaches to alternative education when warranted.

The Commission minority is recommending that the Legislature appropriate $2 million to be issued as grants to local school districts for alternative education programming. The appropriated money would be targeted aid and not included in General purpose Aid (GPA) for Schools.

MINORITY REPORT REGARDING RECOMMENDATION #8 OF THE COMMISSION TO STUDY PROVIDING EDUCATORS WITH MORE AUTHORITY TO REMOVE VIOLENT STUDENTS FROM EDUCATIONAL SETTINGS

Recommendation #8 of the Commission to Study Providing Educators with More Authority to Remove Violent Students From Educational Settings provides for the release of information to school officials pertaining to alleged criminal activities of students. The recommendation provides that when a juvenile has been charged in a juvenile petition or adjudicated for an alleged offense which would be a felony, or involved violence or the use of a weapon against a person or involved a controlled substance, or involved the use or threatened use of physical force against a person, that the district attorney will provide to the student's superintendent and designees various information. While Commissioners Therrien and Stryker strongly value safe school environments, we dissent from this recommendation for the following reasons:

1. The Recommendation is Contrary to the Purposes of the Juvenile Justice System.

Maine's Law Court has ruled that:

> The purpose of juvenile courts, and laws relating to juvenile delinquency, is to carry out a modern method of dealing with youthful offenders, so that there may be no criminal record against immature youth to cause detrimental local gossip and future handicaps because of childhood errors and indiscretions, and also that the legal or moral patterns, may be guided or reformed to become, in his mature years, a useful citizen.

Wade v. Warden of State Prison, 145 Me. 120, 73 A.2d 128 (1950). The recommendation of the commission does not safeguard this purpose. Once information is released into the school environment, there is nothing to prevent it from becoming gossip that will follow and "handicap" a youth forever. When a youth is subsequently found innocent of an alleged crime, there will be no way to put the information genie back in the bottle. He will have been branded in his community due to this information flow. In this regard, it also should be noted that the recommendation that "any information received under this paragraph shall not become part of the student's education record" may or may not be effective. Such information may well fall under the definition of educational record used in the regulations to the Family Educational Rights and Privacy Act, 20 U.S.C. §1232g. As a practical matter, it is hard to see how this information would be kept out of the student's records file.

Maine's Juvenile Code also describes the purposes of the code. These purposes include provision of "procedures through which the provisions of the law are executed and enforced and that ensure that the parties receive fair hearings at which their rights as citizens are recognized and protected...." 15 M.R.S.A. §3002(1)(E). Fundamental to these rights is the cornerstone of our system of justice: until proven guilty beyond a reasonable doubt by the state, a person is presumed to be innocent. What is the purpose of the recommendation to release pre-adjudicatory information to schools, other than to take actions regarding the student which are premised on the assumption that the student is guilty of the alleged crime?

Finally, rehabilitation has always been an overarching goal of the juvenile justice system. State v. Gleason, 404 A.2d 573 (Me, 1979). Nothing in Recommendation #8 speaks to rehabilitation.

For these reasons, Commissioners Therrien and Stryker dissent from this Commission recommendation, and instead recommend that information be released only upon adjudication of a clearly violent crime.

2. The Recommendation Alters a Recently Enacted Law Which Already Provides for the Release of Information to Schools.

In 1997, Maine's legislature added section B-1 to 15 M.R.S.A. § 3308. Section B-1 provides that information in the records of a court proceeding, as well as information contained in police records, juvenile caseworkers records, and probation officer's record, can be disseminated to a superintendent if a juvenile has been adjudicated as having committed a juvenile crime, and if the information disseminated is relevant for the purpose of creating or maintaining an "individualized plan for the juvenile's rehabilitation." 15 M.R.S.A. §3308(B-1). Thus records regarding any adjudicated crime, not just violent crime, can be shared with school officials already. This law has only recently gone into effect (September of 1997). Clearly this statute was designed to address many of the same issues that Recommendation #8 was designed to address. The Department of Corrections has made individualized case-planning and collaborative work with schools as permitted by this statute a major initiative to benefit juveniles under its supervision. This statute is also preferable to Recommendation #8 because of its focus on individualized planning for a juvenile's rehabilitation. Before the legislature radically alters the information sharing mechanism laid out in the statute, it should first allow this new statute a fair trial period.

3. In Requiring Release of Information for Crimes Not Involving Violence, This Recommendation Exceeds the Purview of the Commission.

Recommendation #8, as drafted, requires information to be released for substance abuse offenses and non-violent felonies. This is well beyond the subject of violent students that the Commission was charged to investigate. The link between alleged crimes involving substance abuse, non-violent felonies (e.g. perjury, burglary, bribery, aggravated criminal invasion of computer privacy), and the risk of violence is far from clear.

If it is considered absolutely necessary for pre-adjudicatory information to be released, Commissioners Therrien and Stryker recommend that only information related to murder, or violent class A, B, or C crimes be released. This release would therefore include aggravated assault, which is defined as intentional, knowing or reckless causation of serious bodily injury to another, or bodily injury to another with the use of a dangerous weapon, or bodily injury to another under circumstances manifesting extreme indifference to the value of human life. (17-A §208) Class D assaults (17-A §207) can include situations where little or no bodily injury occurs, but where, instead, only offensive physical contact to another occurs. One example of a class D assault would be a simple shove or push, or a fistfight on the baseball diamond. This kind of crime does not present a necessary connection to a risk of violence.